



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

WILL WILSON
ATTORNEY GENERAL

October 7, 1957

Hon. Robert S. Calvert
Comptroller of Public Accounts
Capitol Station
Austin 11, Texas

Opinion No. WW-270

Re: Whether or not the W. T.
Grant Company, Dallas,
Texas, is subject to
taxation under the lease-
hold agreement referred
to in Article 7173, R.C.S.

Dear Mr. Calvert:

You request the opinion of this office upon the ad valorem taxability of the lease-hold estate of W. T. Grant Company in certain real estate located in Dallas, Texas, in which the University of Texas is the lessor and W. T. Grant Company is the lessee.

You submitted with your request a copy of the lease involved. It is dated December 12, 1946, and expires June 30, 1959. The real property covered by the lease is concededly State-owned property and since it is for a term of more than three years its taxability is governed by Article 7173, Vernon's Civil Statutes, which provides in part as follows:

"Property held under a lease for a term of three years or more, or held under a contract for the purchase thereof, belonging to this State, or that is exempt by law from taxation in the hands of the owner thereof, shall be considered for all the purposes of taxation, as the property of the person so holding the same, except as otherwise specifically provided by law."

This Statute was construed by the Supreme Court of this State in the case of Tramwell v. Faught, Tax Collector, 74 Tex. 557, 12 S.W.317, as applicable to the lease-hold estate and not to ownership of the fee in the following language which we quote from the opinion:

"... If appellant had held the lands under an absolute lease for a term of three years or more, his lease-hold estate would have been subject to

Hon. Robert S. Calvert, page 2 (WW-270)

taxation upon such value as it would bring at a fair voluntary sale for cash, but he would not have been liable to taxes upon the value of the freehold estate in the lands."

Our research does not reveal that this ruling of the Supreme Court has been departed from. Article 7174, V.C.S. provides how such lease-hold estate shall be valued. This Statute provides in part as follows:

"Taxable leasehold estates shall be valued at such a price as they would bring at a fair voluntary sale for cash."

You are, therefore, respectfully advised that the lease-hold estate of W. T. Grant Company in the real property in question is subject to ad valorem taxes and the value should be ascertained as provided in Article 7174, V.C.S.

S U M M A R Y

A lease-hold estate of the lessee in property owned by the State which is for a term of three or more years is subject to ad valorem taxation. The value should be ascertained as provided in Article 7174, V.C.S.

Very truly yours,

WILL WILSON
Attorney General

LPL:gs

APPROVED:

OPINION COMMITTEE
Geo. P. Blackburn, Chairman

Joe Rollins

J. Milton Richardson


B. H. Timmins, Jr.

Houghton Brownlee, Jr.

REVIEWED FOR THE ATTORNEY GENERAL

By: James N. Ludlum

By


L. P. Lollar
Assistant